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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,965	08/01/2005	Charles Yang	1321-14 PCT US	2996
28349 7590 08/18/2009 DILWORTH & BARRESE, LLP 1000 WOODBURY ROAD SUITE 405 WOODBURY, NY 11797				
EXAMINER				
LEE, DORIS L				
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
08/18/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,965

Applicant(s)

YANG ET AL.

Examiner

Doris L. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. No new grounds of rejection are set forth below. Thus, the following action is made final.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

Claim Rejections - 35 USC § 103

3. **Claims 1-3, 5-6, 8-11, 15-18 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wright (US 3,639,096)** in view of **Fearing (US 4,335,178)**.

The rejection is adequately set forth in paragraph 4 of the Office Action mailed on January 26, 2009 and is incorporated here by reference.

4. **Claims 4 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wright (US 3,639,096)** in view of **Fearing (US 4,335,178)** and **Weil et al (US 3,746,572)**.

The rejection is adequately set forth in paragraph 5 of the Office Action mailed on January 26, 2009 and is incorporated here by reference.

5. **Claims 7, 12 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wright (US 3,639,096)** in view of **Fearing (US 4,335,178)**, **Wu et al "Comparison of Different Organophosphorus Flame Retardants Agent for Cotton", Polymer Degradation and Stability 92 (2007) 363-369** and **Fesman et al (EP 0 138 204 A1)**.

The rejection is adequately set forth in paragraph 6 of the Office Action mailed on January 26, 2009 and is incorporated here by reference.

6. **Claim 13** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wright (US 3,639,096)** in view of **Fearing (US 4,335,178)**, **Weil et al (US 3,746,572)**, **Wu et al "Comparison of Different Organophosphorus Flame Retardants Agent for Cotton", Polymer Degradation and Stability 92 (2007) 363-369** and **Fesman et al (EP 0 138 204 A1)**.

The rejection is adequately set forth in paragraph 7 of the Office Action mailed on January 26, 2009 and is incorporated here by reference.

Response to Arguments

7. Applicant's arguments filed May 26, 2009 have been fully considered but they are not persuasive.

8. **Applicant's argument:** The applicant reiterates the argument that one of ordinary skill in the art would not add hydroxyl- functional phosphorus esters containing at least two phosphorus atoms of Fearing to the Wright formulation since doing so would render Wright unsatisfactory for its intended purpose. Wright teaches away from the addition of anything that would not result in a composition that will impart wrinkle resistant properties. Applicant has submitted a second Declaration under 37 CFR 1.132 (hereafter, the Stowell Declaration) to support this assertion.

Examiner's response: *The previous Stowell declaration argued that combining the flame retardant of Fearing with the wrinkle resistant formulation of Wright would destroy the functionality of Wright, in response, the examiner asserted that no data was provided to support applicant's argument. In the, the second Stowell Declaration,*

applicant provides scientific evidence to allegedly support his claim that the combination of Wright and Fearing is destructive to the wrinkle resistance of the textile.

Regarding the applicant's argument that the adding the flame retardant of Fearing would destroy the anti-wrinkle properties of Wright, applicant shows that in Figure 1 of Exhibit A, the anti-wrinkle properties are diminished with the addition of the flame retardant. The examiner notes that in Section 9 of the Stowell Declaration, the applicant states that an untreated fabric has a WRA of 205 degrees. It is noted that in Figure 1 of Exhibit A, although the fabric which incorporates the flame retardant does show a reduced WRA as the concentration of the TMM is increased, it certainly has not been reduced to a non-treated fabric level, there still is some level of wrinkle resistance in the fabric, even when the flame retardant is added. It is also noted that when the TMM concentration level is close to 1%, the performance between the flame retardant containing treatment and the non-flame retardant containing treatment is quite similar. It is noted that the claims do not specify amount of the ingredients – so at these low TMM concentrations, the addition of the flame retardant does not completely destroy the wrinkle resistant capabilities.

Regarding Exhibit B, Figures 1 and Figure 2, it is noted that no conclusion can be drawn about the addition of the flame retardant destroying wrinkle resistance because Figure 1 contains no flame retardant and in Figure 2 both data lines contain the same amount of flame retardant. These two figures show the difference between DMDHEU and M-F performance on WRA.

Regarding Exhibit C, applicant has not pointed to data in the citation to further prove his argument.

In light of the discussion above, it is evident that the Stowell Declaration is unpersuasive.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Doris L. Lee whose telephone number is (571)270-3872. The examiner can normally be reached on Monday - Thursday 7:30 am to 5 pm and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571)272-1119. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Doris L Lee/
Examiner, Art Unit 1796

/Vasu Jagannathan/
Supervisory Patent Examiner, Art Unit 1796